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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**SAN FRANCISCO DIVISION**

AMERICAN CIVIL LIBERTIES UNION OF  
NORTHERN CALIFORNIA,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND  
SECURITY, IMMIGRATION AND  
CUSTOMS ENFORCEMENT,

Defendant.

Case No. 3:18-cv-4105-LB

**JOINT CASE MANAGEMENT  
STATEMENT**

Date: November 1, 2018

Time: 11:00 a.m.

Courtroom: Courtroom C, 15<sup>th</sup> Floor

Judge: Hon. Laurel Beeler

**JOINT CASE MANAGEMENT STATEMENT**

The parties jointly submit this case management conference statement pursuant to the Court's July 10, 2018 Order (ECF 8), Standing Order for All Judges of the Northern District of California, dated January 17, 2017, Civil Local Rule 16-9, and Federal Rule of Civil Procedure 26(f).

**1. Jurisdiction & Service**

There are no issues concerning personal jurisdiction, venue, or service. Plaintiff brought this action under the Freedom of Information Act ("FOIA"), 5 U.S.C § 552(a)(4)(B) and 28 U.S.C. § 1331. All parties have been served.

**2. Facts**

By letters dated December 18, 2017 and April 6, 2018, Plaintiff American Civil Liberties Union of Northern California ("ACLU-NC" or "Plaintiff") submitted two FOIA requests to the U.S. Department of Homeland Security, Immigration and Customs Enforcement ("ICE" or "Defendant") seeking records about the contracts between ICE and G4S Secure Solutions, Inc. ("G4S") and other private contractors for the transport of detainees in the San Francisco AOR; the policies, procedures, and guidelines for detaining and transporting immigration detainees in the state of California; recent complaints about the transportation of immigration detainees; records related to the retention of private transportation providers; and records related to the vehicles, officers, and other individuals involved in the transportation process. By letter dated January 3, 2018, ICE acknowledged receipt of the December 18, 2017 FOIA request and assigned it a reference number. On April 25, 2018, ICE provided an electronic acknowledgment of receipt of the April 6, 2018 FOIA request and assigned it a reference number. Plaintiff filed its lawsuit on July 10, 2018.

Defendant has been making rolling document productions on Plaintiff's FOIA requests. To date, Defendant has provided four interim document responses and produced four sets of documents. On October 22, 2018, Defendant's counsel informed Plaintiff's counsel that Defendant had collected approximately 18,000 pages of potentially responsive documents. Those pages are currently being reviewed and processed for release. Further, additional searches still being conducted may reveal additional potentially responsive documents.

On October 22, 2018, Defendant's counsel also informed Plaintiff's counsel that the 18,000 pages corresponded to approximately 1,000 potentially responsive documents. Of those 18,000 pages, Defendant could process 500 pages per month.

The parties have engaged in discussions in an attempt to narrow the scope of their dispute, and have been working in good faith to resolve some of the claims and issues in this action. *See* Paragraph 17, *infra*.

**3. Legal Issues**

Whether defendant has met its obligations to plaintiff under the FOIA.

**4. Motions**

There are no prior or pending motions. The parties anticipate that this matter can be resolved on summary judgment. The parties submit, however, that scheduling any such motion is premature at this time. The parties are currently working in good faith to resolve some of the claims and issues in this action. *See* Paragraph 17, *infra*.

**5. Amendment of Pleadings**

No party anticipates amending its pleadings.

**6. Evidence Preservation**

Defendant acknowledges its duty to preserve relevant materials in accordance with applicable rules and case law.

**7. Disclosures**

The parties agree and stipulate pursuant to Federal Rule of Civil Procedure 26(a)(1)(A) that initial disclosures are not necessary, as this is a FOIA action for which there is no need to exchange such disclosures.

**8. Discovery**

To date, no discovery has been taken by any party, and the parties do not currently anticipate that discovery will be necessary in this case.

**9. Class Actions**

This case is not a class action.

1           **10.    Related Cases**

2           Undersigned counsel are unaware of any related cases before another judge of this Court.

3           **11.    Relief**

4           Plaintiff seeks an order directing defendant to engage in a search reasonably calculated to  
5           discover all responsive documents, and to produce any non-exempt, reasonably segregable  
6           information. Defendant seeks a defense judgment and dismissal of this action.

7           **12.    Settlement and ADR**

8           This case has been assigned to the ADR Multi-Option Program, and the parties have  
9           conferred about ADR processes in conformance with ADR Local Rule 3-5. The parties prefer to  
10          discuss ADR selection with the Court at the case management conference.

11          **13.    Consent to Magistrate Judge for All Purposes**

12          The parties have consented to assignment of this case to this Court for all purposes.

13          **14.    Other References**

14          The parties agree that this case is not suitable for reference to binding arbitration or a special  
15          master, or reference to the Judicial Panel on Multidistrict Litigation.

16          **15.    Narrowing of Issues**

17          The parties have been engaged in the meet-and-confer process in an attempt to narrow the  
18          issues. *See* Paragraph 17, *infra*.

19          **16.    Expedited Trial Procedure**

20          The parties believe that this case can be resolved on summary judgment. The expedited trial  
21          procedure is therefore inapplicable.

22          **17.    Scheduling**

23          The parties anticipate that this matter can ultimately be resolved on summary judgment. The  
24          parties submit, however, that scheduling any such motion is premature at the time of the filing of this  
25          joint case management statement. The parties are currently working in good faith to resolve some of  
26          the claims and issues in this action.

27          In particular, Plaintiff submitted two FOIA requests seeking records of ICE pertaining to  
28          ICE's procedures for retaining and overseeing private transportation contractors, the standards

1 governing private contractors in their transportation of immigration detainees, and whether private  
2 contractors actually comply with such standards when transporting immigration detainees.

3 Defendant does not have an estimated production completion date due to the voluminous  
4 records collected to date, searches are still being conducted, and the fact that due to limited  
5 government resources Defendant can process 500 pages monthly. Defendant's counsel's informed  
6 Plaintiff's counsel of two types of documents returned by the searches that Plaintiff may not be  
7 interested in, or that may not be responsive to the FOIA requests. Approximately two thirds of the  
8 18,000 potentially responsive pages (approximately 13,000 pages) consist of time-sheets records  
9 (such as hours worked and meal breaks for contractors), and approximately 500 pages consist of  
10 vehicle maintenance receipts (such for as oil changes, and car washes). Defendant's counsel is  
11 waiting for Plaintiff's counsel's response. Defendant is willing to engage in discussions about  
12 prioritizing the production after Plaintiff's counsel responds on whether the contractor time-records  
13 and maintenance receipts need to be produced. Plaintiff's counsel suggested prioritizing the types of  
14 records to produce, but Defendant's counsel has previously explained that prioritization would not  
15 speed up the processing or production time.

16 In addition, Defendant's counsel has also asked Plaintiff's counsel to advise if records are  
17 identified in the ongoing interim production that Plaintiff is not interested in.

18 Plaintiff's position is that Defendant has exclusive knowledge of the documents that are  
19 responsive to the two FOIA requests, and therefore Defendant should identify any specific requests  
20 or categories of requests that Defendant believes encompasses a high volume of documents that may  
21 exceed the scope of Plaintiff's objectives. Plaintiff will review such categories to determine whether  
22 the FOIA requests can be modified or streamlined, and plans to respond to Defendant regarding the  
23 subcategories identified in the preceding paragraph by the time of the case management conference.  
24 Plaintiff's position is that Defendant is capable of processing more than 500 pages per month—a rate  
25 that is lower than that at which agencies process FOIA requests in similar litigation. Finally,  
26 Plaintiff proposes providing Defendant with a priority list of categories of documents sought in order  
27 for Defendant to prioritize the production of certain categories.

Thus, the parties continue to engage in a meet and confer process and request additional time to allow that process to continue. At this juncture, however, the parties are unable to propose a schedule for summary judgment, as Defendant has indicated that it will continue producing additional documents on a rolling monthly basis.

**18. Trial**

The parties anticipate that this entire case will be resolved on summary judgment.

**19. Disclosure of Non-Party Interested Entities or Persons**

Defendant has not filed a disclosure of interested entities or persons because Local Rule 3-16 excuses government entities or their agencies from this requirement. As set forth in plaintiff's Civil Local Rule 3-16 statement filed on September 26, 2018, the undersigned counsel for plaintiff certifies that, other than the named parties, there is no such interest to report.

**20. Other**

None.

Dated: October 25, 2018

Respectfully submitted,

By: /s/ Andrew Ong

Neel Chatterjee

Andrew Ong

Hong-An Vu

Hayes Hyde

Andrea Scripa Els

**GOODWIN PROCTER LLP**

Vasudha Talla

Jamie L. Crook

**AMERICAN CIVIL LIBERTIES**

**UNION FOUNDATION OF**

**NORTHERN CALIFORNIA**

*Attorneys for Plaintiff*

DATED: October 25, 2018

ALEX G. TSE

United States Attorney

By: /s/ Gioconda R. Molinari

GIOCONDA R. MOLINARI

Assistant United States Attorney

**ATTORNEY ATTESTATION**

I hereby attest, pursuant to Local Rule 5-1(i)(3), that I obtained the concurrence in the filing of this document from the signatories indicated by the conformed signature (/s/).

/s/ Andrew Ong  
Andrew Ong

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on October 25, 2018. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on October 25, 2018, in Redwood City, California.

/s/ Andrew Ong  
Andrew Ong